



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

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Matter of: Caswell International Corporation

File: B-278103

Date: December 29, 1997

Rodney A. Grandon, Esq., Patton Boggs, L.L.P., for the protester.
Capt. Patrick B. Kernan, Department of the Army, for the agency.
Paula A. Williams, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that interoperability requirement in solicitation for targetry equipment used for military training exercises is unduly restrictive of competition is denied where the requirement is based on the agency's need to ensure operational safety and military readiness.

DECISION

Caswell International Corporation protests the terms of request for quotations (RFQ) No. DABT60-97-Q-0479, issued by the Department of the Army, for a quantity of commercially available targetry equipment used by the 25th Infantry Division stationed in Hawaii. Caswell contends that the solicitation requirement for interoperability with existing government-owned targetry manufactured by ATA Defense Industries, Inc. (ATA) is unduly restrictive of competition.

We deny the protest.

The agency issued a combined Commerce Business Daily synopsis and solicitation for targetry equipment which was published on July 25, 1997. The equipment under this RFQ, a total small business set-aside, will be used to support training for the 25th Infantry Division at a number of locations in Hawaii and will also be used as targetry that can be deployed by the 25th Infantry Division in support of its mission to South Korea--the primary deployment site for the 25th Infantry Division.¹

The challenged interoperability requirement, listed in the performance specifications, provides as follows:

¹A hearing was conducted in connection with this protest pursuant to 4 C.F.R. § 21.7(g) (1997).

All items procured under this contract must be fully interoperable with existing deployable range equipment procured from ATA Defense Industries.

A site visit was scheduled for August 15 to allow interested vendors to view, operate, and take readings from government-furnished targetry equipment that was the same as the targetry equipment being used by the 25th Infantry Division. ATA was the only vendor that submitted a quotation by the August 22 extended closing date. That same day, Caswell filed an agency-level protest in which it argued that the solicitation improperly restricts competition because potential vendors, other than ATA, cannot meet the requirement for interoperability with ATA-proprietary targetry equipment. The agency denied that protest on September 10, and the firm's subsequent protest to our Office repeated this claim.²

The agency explains that the interoperability requirement is necessary because the targetry equipment at issue here will be combined with existing government-owned ATA targetry to meet the multi-level training needs of the 25th Infantry Division.³ According to the agency, if the range targetry equipment available to the Range Control Officer (RCO) are not interoperable, the RCO cannot pre-program the training scenarios in the way the exercises are going to occur nor, depending on the nature of the training exercises, rapidly reconfigure the targetry as needed. The result would be detrimental to military training and readiness, as the RCO may be unable to conduct division, brigade, and battalion-wide exercises.

For example, when a division-wide exercise is conducted, all ranges and targets are utilized. Conducting the training and moving through the ranges with the soldiers are observer/controllers who evaluate and operate the targetry by means of a hand held controller (HHC). If the targetry being acquired were not interoperable with the existing targetry, the observer/controller would have to carry two different types of HHCs (the average weight for each is more than 10 pounds) to operate the targets and would need to keep track of which HHC operated the next target device. The agency states that the probability for a training incident is very high because most of these live-fire training exercises occur at night. VT at 13:27:01. To require the observer/controller to carry two HHCs would create an unacceptable risk which, the agency states, would threaten the safety of the soldiers participating in these live-fire training exercises. VT at 13:31:00.

²A purchase order was subsequently awarded to ATA, but performance has been suspended pending resolution of this protest.

³Two members of the technical team testified that the Army owns more than \$1 million in ATA targetry equipment in the 25th Infantry Division's primary areas of operation--Hawaii and South Korea. Video Transcript (VT) 13:48:10.

Further, since the 25th Infantry Division is routinely deployed to South Korea, the Army must have the ability to combine the targetry used by the 25th Infantry Division in Hawaii with the targetry on hand in South Korea. The agency maintains that, as in Hawaii, the military readiness of the troops in South Korea would be severely compromised if the targetry equipment deployed with the 25th Infantry Division were not interoperable with the government-owned ATA targetry used by the soldiers in South Korea. VT at 13:39:40.

The Competition in Contracting Act of 1984 requires that agencies specify their needs and solicit offers in a manner designed to achieve full and open competition, so that all responsible sources are permitted to compete. 10 U.S.C. § 2305 (a)(1)(A)(i) (1994). The determination of a contracting agency's minimum needs and the best method for accommodating them are matters primarily within the agency's discretion. Tucson Mobilephone, Inc., B-250389, Jan. 29, 1993, 93-1 CPD ¶ 79 at 2, recon. denied, B-250389.2, June 21, 1993, 93-1 CPD ¶ 472. Where a requirement relates to national defense or human safety, as here, an agency has the discretion to define solicitation requirements to achieve not just reasonable results, but the highest level of reliability and effectiveness. Industrial Maintenance Servs., Inc., B-261671 et al., Oct. 3, 1995, 95-2 CPD ¶ 157 at 2; Harry Feuerberg & Steven Steinbaum, B-261333, Sept. 12, 1995, 95-2 CPD ¶ 109 at 3.

The record provides no basis to question the legitimate concerns of the agency regarding the impact on the safety of the soldiers participating in the training exercises and the overall military readiness of the 25th Infantry Division if the targetry being acquired were not interoperable with existing government-owned targetry equipment. Based on this record, including the testimony from agency officials, and the fact that Caswell does not refute the agency's explanation supporting its requirement, we do not find the interoperability requirement unduly restrictive.

The protester continues to argue that potential vendors such as itself could not achieve interoperability with the ATA equipment because the cost to reverse engineer an interface would be prohibitive and would require access to ATA proprietary information, such as ATA's proprietary control systems. The agency responds that the level of effort and technical approach needed to manufacture an interface box to achieve interoperability do not require access to ATA's proprietary data. In this regard, the agency asserts that, in order to make different target systems interoperable, a potential vendor need only determine the radio signals generated by the government-owned HHC. Once the radio signals are obtained, the vendor could build an interface box that would be placed on the targets to convert the radio signals from the differing HHC to a language that the vendor's target interface box could understand. While Caswell disagrees with this technical approach and argues in favor of an extensive engineering and design effort that allegedly would require access to ATA proprietary software, Caswell has not shown that the agency's position regarding the feasibility of developing an interface is

wrong. Further, given our conclusion that the interoperability requirement at issue here is reasonably related to the Army's needs, the fact that Caswell or other vendors cannot meet the requirement does not demonstrate that it is improper.⁴

The protest is denied.

Comptroller General
of the United States

⁴Caswell has made a number of other related contentions during the course of this protest pertaining to the adequacy of the agency's market survey and the time allowed for vendors to attend the site visit and engineer a solution to the interoperability requirement. Although these contentions are not specifically addressed in this decision, each was carefully considered by our Office and found to be either immaterial in view of our conclusion above that the requirement was justified by the Army, or untimely (either because the protest issues were not raised prior to the date set for the submission of quotations or because they were first raised in the comments to the agency report). Bid Protest Regulations, 4 C.F.R. § 21.2.